



**United States
General Accounting Office
Washington, D.C. 20548**

Office of the General Counsel

B-279798

April 29, 1998

The Honorable John H. Chafee
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

The Honorable John W. Warner
Chairman
The Honorable William M. Thomas
Vice Chairman
Joint Committee on Printing
Congress of the United States

Subject: Environmental Protection Agency: National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency (EPA), entitled "National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category" (RIN: 2040-AB53). We received the rule on April 14, 1998. It was published in the Federal Register as a final rule on April 15, 1998. 63 Fed. Reg. 18504.

The final rule contains new effluent limitations guidelines and standards under the Clean Water Act for a portion of the pulp, paper, and paperboard industry, and national emission standards for hazardous air pollutants under the Clean Air Act as amended in 1990 for the pulp and paper production source category. EPA is also promulgating best management practices under the Clean Water Act for a portion of the pulp, paper, and paperboard industry.

Enclosed is our assessment of EPA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the EPA complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Environmental Protection Agency is Peter Guerrero, Director, Environmental Protection Issues. Mr. Guerrero can be reached at (202) 512-6111.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Thomas E. Kelly
Director, Office of Regulatory
Management and Information
Environmental Protection Agency

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
"NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR
SOURCE CATEGORY: PULP AND PAPER PRODUCTION; EFFLUENT
LIMITATIONS GUIDELINES, PRETREATMENT STANDARDS, AND NEW SOURCE
PERFORMANCE STANDARDS: PULP, PAPER, AND PAPERBOARD CATEGORY"
(RIN: 2040-AB53)

(i) Cost-benefit analysis

EPA performed an Economic Analysis of the final rule, including the Clean Air Act and Clean Water Act portions of the rule, and the analysis is summarized in the preamble to the final rule. Our Office received a copy of the entire analysis as required by the Congressional Review Act.

The analysis shows that the combined costs of the air and water portions of the rule to be a capital cost of \$1.393 billion, with operating and maintenance costs of \$211 million and post- and pre-tax annualized costs of \$229 million and \$351 million, respectively.

While the analysis states that EPA is confident of the cost figures included in the analysis, an estimation of the benefits is more difficult because of EPA's inability to quantitatively evaluate all human and ecosystem benefits and to assign monetary values to these benefits for a comparison in a standard cost-benefit framework. For example, EPA was only able to monetize three of the seven air pollutants affected by the rule.

The analysis also discusses in qualitative terms the benefits of the rule regarding human health, including the health effects for Native American subsistence fishermen and reduction of projected non-cancer effects and improvements in fish and wildlife habitat.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

EPA has certified that the final rule will not have a significant impact on a substantial number of small entities because, using the size standard of fewer than 750 employees, only four firms would be considered small entities. The cost of the Clean Water Act portion of the rule for these entities only exceeded 1 percent of revenues for one of the facilities and in no case did it exceed 3 percent. EPA

estimates that the impact of the Clean Air Act maximum achievable control technology portion of the rule in combination with the Clean Water Act portion is that one facility owned by one of the four small entities may close as a result of the combined impact.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

EPA has determined that the final rule, while not imposing a federal mandate that will result in the expenditure of \$100 million or more in any one year, will impose such a mandate on the private sector. Therefore, in compliance with section 202 of the Unfunded Mandates Reform Act, EPA prepared a written statement, including a cost-benefit analysis, assessing the impact of the rule, which is summarized in the preamble to the final rule. A complete copy of the statement was furnished to our Office as part of the Economic Analysis.

While EPA determined that the rule will not significantly or uniquely affect any state, local or tribal governments, EPA consulted with state and local air and water pollution control officials primarily regarding implementation issues.

Section 205 of the Act requires agencies to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The preamble discusses the alternatives considered and why EPA believes that the alternative selected is the least costly and least burdensome consistent with the requirements of the Clean Water Act and the Clean Air Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued pursuant to the notice and comment procedures contained in 5 U.S.C. § 553. On December 17, 1993, EPA published a notice of proposed rulemaking on the integrated air and water rules in the Federal Register. 58 Fed. Reg. 66078. On February 10, 1994, EPA held a public hearing so interested parties could present their views on the proposed rule. On March 8, 1996, a notice of proposed rulemaking was published concerning the air portions of the rule. All during this process, EPA issued many notices of data availability and held other meetings with numerous industry stakeholders, trade associations, environmental groups, states, and other interested parties.

In the preamble to the final rule, there is extensive discussion of the comments submitted and the actions and changes to the proposed rule that EPA made as a result of its consideration of the comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains collections of information which are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

The preamble to the final rule contains the required information regarding the collections, including the legal basis and reason for the collections, the number of respondents, and an estimate of the annual burden hours.

EPA estimates that there are approximately 490 respondents that are affected by the air emission rules and must submit an initial applicability notification. Of these 490 respondents, an estimated 155 respondents would be required to perform additional information collection. This results in an estimated burden of 320 hours over the first 3 years after promulgation at a 3-year cost of \$29,600 per respondent.

The collections have been sent to OMB for approval and the requirement is not effective until approved by OMB and a control number is issued.

Statutory authorization for the rule

The final rule was issued pursuant to the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, 1342, and 1361, and sections 112, 114, and 301 of the Clean Air Act, 42 U.S.C. §§ 7412, 7414, and 7601.

Executive Order No. 12866

The final rule was determined to be an "economically significant" regulatory action by the Office of Management and Budget. It was reviewed by OMB and approved as meeting the requirements of the Order.